

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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ANA BIOCINI, et al.,

Plaintiff,

vs.

No. 3:14-cv-03315-TEH

CITY OF OAKLAND, a municipal corporation, et al.,

Defendants.

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DEPOSITION OF ANA BIOCINI

Taken before CATHLEEN M. MEUTER

CSR No. 12950

September 8, 2015

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1 BY MR. PEREDA:

2 Q. How long have you known Mr. James?

3 A. Mr. James moved in I believe -- and I'm pretty
4 sure of this -- that he moved in either the beginning
5 of 2013 or before.

6 Q. Okay. And you've known him since then.

7 A. Yes. Yes. I've known him since then.

8 Q. He's been supportive of you.

9 A. Well, he's a very nice person. He's a very
10 good neighbor. You could say he's very gentlemanly.
11 And he as well as I was very impacted with what
12 happened with my brother. He was by my side throughout
13 it all.

14 Q. And he's your friend now.

15 A. Well, yes. I gift him tickets to go to the
16 Monterey Bay Aquarium with the kids. We're really good
17 neighbors. Because I work for the San Jose Mercury
18 News, I get free tickets. We have -- well, I believe
19 he's my best neighbor.

20 Q. And you have his phone number.

21 A. Yes.

22 MR. PEREDA: Mr. Lacy do you mind getting that
23 for us at a break as well?

24 MR. LACY: I think that's the number that we
25 agreed we were going to give before.

1 **Exhibit B.**

2 A. Of course. As soon as they obtained discovery,
3 they give me the paperwork. I got to know everything
4 about what's going on.

5 Q. Is there anything in here Exhibit B that you
6 feel you didn't say to police?

7 A. Yes.

8 Q. Can you please tell me what that is?

9 A. It seems to me -- well, there are a lot of
10 things. Almost towards the end, he's saying that I
11 said that they had held onto my brother's head so it
12 wouldn't hit the floor, and that's false. I mean come
13 on. That's a lie. They turned my brother over, and he
14 hit his head against the ground. I thought he had
15 broken his neck. And that's a lie what they're saying
16 here.

17 Q. You never said that is what you're saying.

18 A. No.

19 Q. That was a double negative, but I think it's
20 clear.

21 MR. LACY: Ask the question again. I won't
22 object.

23 MR. PEREDA: It's fine.

24 BY MR. PEREDA:

25 Q. So that was a lie in your opinion, correct?

1 with the police when my brother did not want to get
2 into the car. And he asked am I being arrested, and
3 they said, no, you are not under arrest.

4 My brother is no dummy. He was angry -- maybe
5 angry is the wrong word. He wanted justification from
6 the police as to why they were having him get into the
7 car. He never at any point got aggressive with the
8 police.

9 Q. Have you listened to any --

10 A. And I listened to the whole thing from that
11 point up until the point that the paramedics arrived.
12 I listened to all of it. And you know what I listened
13 to? I listened to the part where my brother was
14 agonizing. And my brother was telling them I can't see
15 you anymore, I'm leaving, let me breathe. And that's
16 the point at which my brother took his last breath.

17 And it's very clear in the video that he was
18 begging them to let him breathe. And he was in agony,
19 and he knew he was dying. And he was saying I can't
20 see you anymore. The way he died was really sad.
21 There was no pity, and it was very cruel. They
22 wouldn't even listen to his last words. He was dying.

23 It's on the video. I'm not lying to you. It's
24 in the video. And I can show you exactly the words.
25 He went on for 10 to 20 minutes asking for help. He

1 just described?

2 A. No. The ambulance hadn't arrived, and they
3 wouldn't unhandcuff him even when he was unconscious.

4 Q. And you're sure you heard him say what you just
5 said.

6 A. Yes. I'm sure. I'm very sure. And the videos
7 are there.

8 Q. Which video?

9 A. The one that Mr. Lacy showed me at the office.
10 Those words appear there, his words. I'm certain of
11 it. I can prove it.

12 Q. Did you ever see any officer punch your
13 brother?

14 A. Not exactly.

15 Q. Did you ever see any officer kick your brother?

16 A. I'm not very -- when he was in the patrol car
17 when they were trying to get him in, I could tell that
18 they were trying to push him down. But I couldn't
19 tell -- well, from my house I could see.

20 Q. Did you ever see any officer kick your brother?

21 A. Not kicking. I may not have seen that.

22 Q. Did you ever hear any officer use any curse
23 word during this whole thing?

24 A. No. No. There were no curse words.

25 Q. While your brother was on the ground, did you

1 Q. What color were the paramedics uniforms?

2 A. I can't remember what color. I can't remember
3 the color of the clothes the paramedics were dressed
4 in. I sometimes don't really notice that sort of
5 detail very much. But what I do remember is that they
6 asked them to unhandcuff him so they could perform CPR
7 on my brother.

8 Q. You said that you reviewed video of the
9 incident, correct?

10 A. Yes.

11 Q. Did you see police officers turning your
12 brother around as you described on that video?

13 MR. LACY: You have to answer his question.

14 THE WITNESS: No. The day that I saw the video
15 I wasn't wearing a jacket, and I was really cold. And
16 I couldn't see a whole lot of detail on that. But I
17 didn't see in the video. I saw it myself. I saw it.
18 I saw it that day, the day that it happened. I saw it.
19 I saw it clearly.

20 I did not see it in the video, but I did see
21 the day that it happened. I saw -- the thing is I have
22 not seen all videos. It possibly may be in the video.
23 It's got to be in the video because it's the truth.
24 That's how it happened.

25 MR. LACY: Just --

1 couldn't see anyone for a month. So before that month
2 was up, he called me and he said I don't want to be
3 here anymore, I want to go back to your house.

4 Q. Did you ever learn why he went to that
5 treatment center?

6 A. Because he wanted to rehabilitate himself from
7 his drug use.

8 Q. From cocaine use.

9 A. I believe he had a cocaine habit, yes.

10 Q. If you know, did he have a habit of using any
11 other drugs?

12 A. No.

13 Q. Do you know if he went into treatment any other
14 time besides what you told us about?

15 A. No. I do not know.

16 Q. Do you know if he was ever arrested for drug
17 use or possession?

18 A. No, I don't. I don't know.

19 Q. Do you know if he was arrested for any reason?

20 A. In the past, yes. It's been a long time.

21 Q. Do you have an understanding as to why he was
22 arrested?

23 A. In 1992.

24 Q. Do you have an understanding as to why he was
25 arrested?

REPORTER'S CERTIFICATE

I, CATHLEEN M. MEUTER, a Shorthand Reporter,
State of California, do hereby certify:

That ANA BIOCINI, in the foregoing deposition named, was present and by me sworn as a witness in the above-entitled action at the time and place therein specified;

That said deposition was taken before me at
said time and place, and was taken down in shorthand by
me, a Certified Shorthand Reporter of the State of
California, and was thereafter transcribed into
typewriting, and that the foregoing transcript
constitutes a full, true and correct report of said
deposition and of the proceedings that took place;

That before conclusion of the deposition,
review of the transcript was not requested.

IN WITNESS WHEREOF, I have hereunder subscribed
my hand this 18th day of September 2015.

Cathy Menter

CATHLEEN M. REUTER, CSR NO. 12950
State of California